

Court No. - 40

Case :- WRIT - C No. - 35758 of 2023

Petitioner :- Smt. Malti Devi

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Govind Narain Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard Shri Govind Narain Srivastava, learned counsel for the petitioner and Shri R.M. Upadhyay, learned Addl. Chief Standing Counsel for State respondents.

2. Present writ petition has been preferred for following reliefs:-

"(a) issue a writ, order or direction in the nature of certiorari quashing the undated order of rejection of application dated 23.9.2023 for issuance of character certificate to the petitioner.

(b) issue a writ, order or direction in the nature of mandamus commanding the respondent authorities to reconsider the application dated 23.09.2023 submitted online on the website of portal of official website of U.P. Police (CCTNS citizen portal) on 23.09.2023 and issue character certificate in favour of petitioner."

3. The record in question reflects that the petitioner is a licensee for retail sale of 'mild' and 'strong' country liquor in sealed bottles / tetra packs and container. The petitioner is running the aforesaid shop since the year 2017 after obtaining the license from District Excise Officer, Mau. The said license was renewed from time to time and is valid till 31.3.2024. There was no complaint against the petitioner. It is submitted that for application of renewal of the license for next financial year the character certificate of the petitioner was required. Accordingly, the petitioner applied for issuance of character certificate on the portal of official website of U.P. Police (CCTNS citizen Portal) on 23.9.2023. When the status of her application for issuance of character certificate has been checked by the petitioner on the official website of U.P. Police (CCTNS Citizen Portal), then she came to know that her application dated 23.9.2023 for issuance of character certificate has been rejected. It is submitted that due to cancellation of petitioner's character certificate the petitioner would be deprived of participating in the tender proceedings (lottery) for the renewal/ allotment of liquor shop for the next year. It is alleged that her application has been rejected without any reason. Moreover, before passing the order impugned, no opportunity of hearing was provided to the petitioner. The order or cancellation of character

certificate is also contrary to the provisions of the Uttar Pradesh Excise Settlement of Licenses for Retail Sale of Foreign Liquor (Excluding Beer) (Sixteenth Amendment) Rules, 2019.

4. Learned counsel for the petitioner further submits that even on the ground of pendency of criminal case the character certificate could not be denied/ cancelled. Reliance has also been placed on the judgment in *Manyata Devi v. State of U.P.*, (2015) 10 SCC 198, wherein it has been held that a character certificate issued in favour of an individual cannot be revoked on the ground that a person in his close relation is having a criminal history. In this backdrop, it is submitted that against the petitioner there is no criminal case and as such the order impugned is liable to be set aside on the ground of principle of natural justice.

5. Considering the facts and circumstances of the case, we find that the claim of the petitioner has been negated without any reason and even she has also not been afforded opportunity of hearing. Accordingly, the impugned undated communication rejecting the application of the petitioner shown on the official website of U.P. Police (CCTNS Citizen Portal) is set aside. The matter is relegated to the authority concerned to look into the grievance of the petitioner and pass appropriate order strictly in accordance with law expeditiously.

6. The writ petition stands **partly allowed** accordingly.

Order Date :- 28.10.2023

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